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January 26, 2022

Ms. Martha Williams
Principal Deputy Director
U.S. Fish and Wildlife Service
1849 C Street, NW
Washington, D.C. 20240

Dear Ms. Williams:

I write seeking information pertaining to the U.S. Fish and Wildlife Service's (Service) proposed rule to list the lesser prairie-chicken (LPC) under the Endangered Species Act (ESA). I have long maintained interest in the Service's actions related to the LPC as the Service's actions have, and will continue to have, a wide-ranging impact on the species and the job-creators across our respective states. While I believe listing the LPC is unwarranted and would not benefit the species or our communities, I seek your assistance in better understanding the Service's proposal to list the species under the ESA.

No one has a better understanding or stronger desire to preserve the land and species in their community more than those who inhabit it. The successful, voluntary conservation of the LPC over the past nearly decade is a direct result of the unprecedented public and private conservation partnerships in which significant investment has been made by entities including energy developers, farmers, ranchers, private landowners, and state wildlife agencies. Investment like that of the Western Association of Fish and Wildlife Agencies' (WAFWA) Range-wide Plan (RWP), which includes the Candidate Conservation Agreement with Assurances (CCAA) for the LPC has yielded encouraging results. For example, WAFWA has found aerial surveys of the species' population have more than doubled since 2013, more than 6 million acres has been enrolled in habitat conservation, and over \$64 million has been invested in enrollment and mitigation fees which have gone toward the species' conservation.

It would be irresponsible to move forward with a listing in light of this substantial investment. Perhaps more importantly, it would send a terrible message to my constituents, who have been engaged in voluntary conservation for years, that their good-faith efforts were doomed from the outset. Moreover, an outcome of that nature would be harmful to all parties, but especially to future conservation efforts of the LPC.

To better understand the Service's proposal, I am seeking information regarding the following issues:

1. The Service has proposed to list two distinct population segments (DPS) of the LPC. The Southern DPS is proposed to be listed as an endangered species while the Northern DPS is proposed to be listed as a threatened species with a rule issued under section 4(d) of the ESA ("4(d) rule"). The Service is proposing two DPSs even though the Service has treated the LPC as a single species for management purposes for twenty years. My understanding is the Service can only designate a DPS if the segment is both discrete and significant. Please provide all the original analysis, data, documents and other related material that led the Service to determine there to be discrete and significant segments needed for a DPS listing designation.

2. The Species Status Assessment (SSA) states that the LPC is, “at high risk of extirpation” due to long-term droughts; however, the Service failed to describe the likelihood or length of a “long-term drought” event or the “geographical extent.” Regarding the Southern DPS, the Service stated, “...another wide-scale severe drought could occur in this ecoregion at any time.” The Service appears to be using this as justification for an endangered listing of the Southern DPS. Please provide the primary documents and analysis relied upon in defining “extended drought” and “geographical extent”. In addition, please provide the complete peer-reviewed scientific documents and analysis that constitutes the best available scientific information that lead the Service to determine the LPC is in danger of extinction.
3. It is my understanding that the Service has not conducted a Policy for Evaluation of Conservation Efforts (PECE) evaluation as part of the SSA or the proposed rule, yet the Service has not identified in the proposed rule or the SSA that the RWP/CCAA – among several key voluntary conservation agreements that have been approved by the Service over the last several years – has been insufficient in preserving the LPC. Please provide the reason the Service has not utilized the PECE policy prior to issuance of the SSA or the listing proposal. In addition, please describe the specific steps the Service is taking to ensure the PECE process will be completely utilized prior to a decision on listing.
4. Your listing proposal relies on a model projecting the future impacts of climate change as one of the driving forces behind the threats to the LPC. A model is only as good as its inputs and assumptions. To what extent have the Range Wide Plan and the various conservation agreements, including CCAA agreements, been incorporated into the model being used to predict the future health of the LPC population? Please also explain the level of uncertainty inherent to the models being used in the listing decision and what standard the Service follows in evaluating a listing decision in light of a models’ uncertainty.
5. The ESA statutorily prefers to avoid listings via state and private conservation efforts. How, specifically, is the Range Wide Plan insufficient to conserve the LPC, given its clear success to date, the Service’s continued participation in its implementation, and the Service’s failure to indicate its flaws to participants prior to the listing announcement? Has the Service engaged in any conversations with the five states participating in the RWP to explain the insufficiency driving the proposal to list the LPC? If so, please provide detailed summaries and documents regarding these meetings. If not, why not?

I share your commitment to the Service’s mission to conserve and protect wildlife and their habitat, especially when states are able to be in the driver’s seat. It is vital that I am fully informed of the Service’s actions related to this listing proposal as, if finalized, would undoubtedly have sweeping impacts to our communities. I appreciate your prompt attention to this inquiry, and look forward to engaging with you further as your nomination to be director of the U.S. Fish and Wildlife Service is considered before the Senate.

Sincerely,



James M. Inhofe
United States Senator